



ESTABLISHED 1802

E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED

WILMINGTON, DELAWARE 19898

LEGAL DEPARTMENT

US EPA RECORDS CENTER REGION 5



401322

March 29, 1989

**CERTIFIED MAIL
RETURN RECEIPT REQUEST**

Ms. Allison L. Hiltner
Remedial and Enforcement Response Branch (5 HS-11)
U.S. Environmental Protection Agency
230 South Dearborn Street
Chicago, IL 60604

Dear Ms. Hiltner:

Re: Special Notice of Potential Liability
Ninth Avenue Dump - Gary, Indiana

R E C E I V E D

APR 03 1989

REMEDIAL &
ENFORCEMENT
RESPONSE BRANCH

This letter responds to the Special Notice of Potential Liability ("Notice") received by my office on March 23, 1989¹. Du Pont continues to deny liability at this site and is still waiting for EPA respond to its December 20, 1989 demand to produce for inspection evidence that Du Pont disposed of hazardous substances at the Ninth Avenue Dump². Until such evidence is


¹ The Notice has not been properly served upon Du Pont since it was sent to a company employee who is not a corporate officer or a registered agent for purposes of receiving process. Du Pont's response to this Order does not waive its argument that, to be effective as against Du Pont, proper service of process is necessary.

² Since receiving a Notice of Potential Liability at the Ninth Avenue Dump in March, 1988, Du Pont has denied liability. Du Pont informed EPA that a search of extant records show no involvement with this site. On April 4, 1988, Du Pont submitted a request for any information in the possession of the EPA, including all records indicating that Du Pont disposed of hazardous substances at the Ninth Avenue Dump. EPA has not, to date, provided to Du Pont any records which demonstrate that Du Pont's alleged disposal of materials at the Ninth Avenue Dump constituted disposal of a CERCLA-defined "hazardous substance" and that any "hazardous substance" allegedly generated by Du Pont is actually being released or threatens to be released into the environment under CERCLA §101(22).

produced, EPA has no basis to allege Du Pont liability for site remediation and the EPA should withdraw the subject Notice as against Du Pont.

Notwithstanding the above objections and without waiver of liability or defenses, Du Pont it intends to cooperate with the negotiation efforts of the Ninth Avenue Steering Committee. Du Pont expressly reserves the right to challenge the Special Notice and to seek reimbursement of costs incurred from other parties.

Sincerely,

A handwritten signature in black ink, appearing to read 'MHCW', with a long horizontal stroke extending to the right.

Mark H. Christman